1949

File No. O. Dentists/49

Legal **DEPARTMENT**

A **BRANCH**

A/876 **Subject:—** Opinions under the Dentists Act, 1948

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The Bombists Act, 1948.

Section 33(2)

Temporary registration foreigners under ---

The view taken by Government of India, Ministry of Health, in their letter dated the 21st April 1949, is correct. There would be no legal objection to registering temporarily under section 33(2) of the Bombists Act, 1948 foreigners domiciled in the Province of Bombay provided the other conditions specified therein are satisfied.

P.M.LAD.
27/5.

Remembrancer of Legal Affairs.

U.R. to H. & L.G.D., No.5950, dated the 28th May 1949.

SEE/3.6.

L.D. R.I. No.20578 dated 13-12-1949.

Submitted.

In exercise of the powers conferred by sub-sec.(1) of sec. 32 of the Dentists Act, 1948, the Govt. of Bombay constituted a Registration Tribunal for the purpose of preparing the register of dentists, by G.R., H. & L.C.D.No.2338/33 dated 13-9-48. The Tribunal would cease to function after the first Dental Register is prepared. As there should be some controlling authority during the period between the preparation of the first Dental Register and the first meeting of the Provincial Dental Council, the Tribunal has proposed that it should be invested with the authority to act as the controlling body with the authority to hold the first elections of the Council and that the period of the appointment of the Tribunal be extended till the date of the first meeting of the Council.

R.L.A. has been requested to advise whether there is any objection to accept the proposal of the Tribunal.

SHR/3.6.

Office of the R.L.A.

The Dentists Act, 1946. sections 2(g), 26, 32.

The proposal made by the Registration Tribunal would not be legally feasible. Under section 32 of the Dentists Act, 1946, the Registration Tribunal is constituted for the purpose of preparing a Register of Dentists. Consequently on such preparation of the Register of Dentists the Registration Tribunal would become functus officio and in the absence of any statutory provision its life cannot be extended. Under the Act no further duty is assigned to the Registration Tribunal. Under section 26 elections to the Provincial Council shall be conducted in the prescribed manner and where any dispute arises regarding any such elections they shall be referred to the Provincial Government whose decision shall be final. "Prescribed" means prescribed by rules or regulations made under this Act. (See section 2 clause (g)). Consequently, it would be necessary to prescribed by rules the authority to hold the elections to the Provincial Council. It would be competent for Government to provide by rules the appointment of any member of the Registration Tribunal or the Registrar thereof to hold the elections to the Provincial Council.

P.M.LAD.
24/12.

Remembrancer of Legal Affairs.

U.R. to H. & L.G.D.No. 15161, dated the 28th December 1949.

SHT/5.6.

Office of the R.L.A.

The Dentists Act, 1948.

Sections 28, 32(2), 34 and 35(1).

Section 28(1) of the Dentists Act, 1948 empowers the Provincial Council with the previous sanction of the Provincial Government to appoint a Registrar who shall also act as Secretary and if so decided by the Provincial Council as its Treasurer. Sub-section 2 provides that notwithstanding anything contained in clause (a) of sub-section (1), for the first four years from the first constitution of the Provincial Council the Registrar of the Provincial Council shall be a person appointed by the Provincial Government who shall hold office during the pleasure of the Provincial Government. It is apparent from these provisions that a Registrar can be appointed by the Provincial Council or by the Provincial Government, only after the Provincial Council has been constituted. Under section 32(1) a Registrar can be appointed who shall act as Secretary of the Tribunal. The Registrar appointed under this provision is different from the Registrar appointed under section 28 for the former is the Registrar of the Tribunal while the latter is the Registrar of the Provincial Council. Under section 32(2) the applications for registrations can be made to the Registration Tribunal within the appointed date notified by Government. Section 34 provides for making applications for registrations after the appointed date under sub-section (2) of section 32. Under section 35 sub-section (1) such applications made after the appointed date are required to be addressed to the Registrar of the Provincial Council. Since the Provincial Council has not yet been constituted the applications falling under section 34 cannot be made now. The Registrar of the Tribunal, cannot be appointed Registrar of the Provincial Council firstly because both are different authorities and secondly because the Provincial Council is not yet constituted. The proposal made by the Tribunal would not, therefore, be legally feasible.

P.M.LAD.
27/12.

Remembrancer of Legal Affairs.

U.R. to H. & S.G.D.No. 15152 dated the
28th December 1949.

SNT/5.6.